

Women's labour rights agenda for the Central American maquila industry March 2014¹

Introduction

On March 2, in Managua, Nicaragua, the Central American Women's Network in Support of Maquila Workers (REDCAM) publicly launched a women's labour rights agenda for maquila workers in the region.

The "Women's Labour Rights Agenda for the Central American Maquiladora Industry" is the product of two years of consultation with women maquila workers and women's and trade union organizations in the Central American region.



The Agenda is endorsed by 11 national women's organizations² and two trade union bodies – the National Committee of Nicaraguan Women Trade Unionists and the Central American Coordinator of Unions in the Maquila. The Maquila Solidarity Network (MSN) and the Central American Women's Fund and MSN are also signatories to the Agenda.

The Agenda proposals are presented under six strategic themes on women workers rights to:

- dignified work and a living wage
- a healthy workplace
- sexual and reproductive health
- social security
- a workplace free of violence and sexual harassment
- training and technical assistance

¹ This is an English translation of **Chapter II of the Agenda de los derechos laborales de mujeres trabajadoras de la Industria Maquiladora en Centroamérica**. The full Agenda (in Spanish) can be accessed at: <http://www.es.maquilasolidarity.org/sites/es.maquilasolidarity.org/files/2014-Agenda.pdf>

Translation by the Maquila Solidarity Network (MSN), May 25, 2014.

² Movimiento de Mujeres Trabajadoras y Desempleadas María Elena Cuadra (MEC) in Nicaragua; Colectiva de Mujeres Hondureñas (CODEMUH) in Honduras; Movimiento de Mujeres "Mélida Anaya Montes" (Las Mélicas), Movimiento Salvadoreño de Mujeres (MSM) and Organización de Mujeres Salvadoreñas por la Paz (ORMUSA) in El Salvador; and Asociación de Mujeres en Solidaridad (AMES), Asociación de Trabajadoras del Hogar, a Domicilio y Maquila (ATRAHDOM), Comité para la Defensa de los Derechos Laborales de las Trabajadoras de las Maquilas (CAMBRIDGE), Grupo de Mujeres con valor, construyendo un futuro mejor (MUVACOFUM), Semillas de Mostaza Guatemala, and Asociación de Mujeres Empleadas y Desempleadas Unidas contra la Violencia (AMUCV) in Guatemala.

1. The right to dignified work and a living wage

More than just a grouping of standards, *Dignified Work* is a concept that encapsulates the aspirations of workers throughout their working lives. It includes full respect for universal labour rights and a sufficient salary that allows workers to access basic goods and services for themselves and their families and a workplace free of gender discrimination or any other form of discrimination. It also offers a satisfactory environment, where workers can fully develop their skills, where access to integrated health care is ensured and where being able to retire and receive a pension is guaranteed. It offers increased opportunities for workers' personal development and integration into society, the freedom for people to express their opinions, and to organize and participate in decisions that affect their lives.

In the majority of Central American countries, maquiladora factories constitute the greatest source of employment for women. In all countries, women occupy at least 50% of the jobs generated and in the case of El Salvador, this number reaches 78%. Although the maquila industry offers an opportunity for women's integration into the workforce, working conditions are precarious. In each of the countries, workers' salaries are below the cost of the basic market basket which greatly affects worker's living conditions and their ability to survive. The flexibilization of labour – a trend that affects a significant proportion of maquila workers – represents a step backward concerning respect for human rights because it requires long work shifts, temporary work, and the elimination of stable employment, social security coverage, and the right to benefits and maternity leave. It results in an increase in harassment and reduction in incomes, given that it disregards regulations established in national legislation.

In this context, women's organizations – movements and associations – that promote this Agenda, are putting forward proposals to governments and state institutions of each country

and to other national and international actors in order to achieve advances on the following:

- (i) Through the enforcement of laws that define labour rights and require regular monitoring of compliance with those rights, Central American governments and their institutions in the region must guarantee respect for workers' labour rights in the maquila industry.
- (ii) It is the responsibility of governments in the region and all economic sectors to create a favourable environment for diverse economic actors to contribute to the creation of dignified employment, especially for women. Governments must direct financial and technical resources for economic entrepreneurship to women who are organized in cooperatives and production collectives such as small and medium enterprises.
- (iii) The failure to pay statutory benefits to workers in the maquila industry is one of the main problems that maquila workers have faced for several years as a result of poor company practices – and in many cases, negligence of governments in ensuring that laws protecting this right are enforced. In order to challenge the ongoing failure of companies in the maquila industry to comply with their legal responsibilities, we put forward the following proposals to the governments in the region:
 - Create in each country a Provisional Fund that guarantees the payment of benefits to workers in the event of factory closures. This fund would be administrated by a tripartite commission (government – business owners – workers) in the respective country and should be backed by the judicial framework of each country.

- Adequately oversee changes made in the legal registry (*razon social*) of companies in the maquila industry to prevent this practice from being used in a supposedly legal manner in order to circumvent workers' right to the severance pay they have accumulated during the time they worked at these factories.

(iv) We understand work to be an activity that contributes to the well-being of people and society. From this perspective, the right to dignified employment and a living wage is a means of guaranteeing the autonomy of people and recognition of their contribution to society.

- Central American governments should effectively promote national employment policies and strategies based on the principle of gender equality. They should promote the enforcement of affirmative action policies as defined in national laws concerning hiring practices, taking preventive measures and sanctions against discrimination based on sex, age, religion, colour, political party, social condition and different abilities.
- Central American governments should guarantee that Free Trade Zones respect the application of and compliance with labour laws, as these zones have a negative impact on the enforcement of the labour rights of workers in this economic sector.
- Central American governments should not permit the flexibilization of the employment relationship that allows the contracting of workers on a temporary or hourly basis, or that allows employers to avoid paying overtime premiums for extraordinary hours that violate national laws. Such practices represent a step backward

concerning respect for workers' labour and human rights and contribute to the deterioration in women's health and quality of life.

- Central American governments should dismiss public servants from their duties if they tolerate or act negligently with respect to labour rights violations against workers in the maquilas.

(v) Unpaid work has profound implications on human poverty and well-being. As a result of the roles assigned by society, women carry out the majority of domestic and unpaid work. This includes domestic work such as cooking and cleaning and taking care of children and/or older adults. Although this work is essential for people's well-being, and the reproduction of the labour force and social cohesion, this class of work is rarely recognized in the economic models used in the formation of policies. Domestic work and forms of personal care are not sufficiently supported by appropriate policies.

- We demand that the Central American governments guarantee that employers in the maquila industry don't violate or fail to respect the rights of women workers to job security during the pre- and post-natal period.
- We demand that maquila industry and brands ensure that the employers comply with their legal obligations in each country in the region to provide child care centres at the workplace for workers' children.
- Governments should develop public policies that promote the redistribution of domestic work responsibilities between men and women.

- Labour Ministries should monitor for and eliminate illegal practices of mandatory pregnancy and HIV tests as a requirement for hiring or for retaining one's employment.
- (vi) The appropriate administrative and legal offices should ensure respect for labour rights in each country in Central America. Specifically, Labour Ministries or Labour Secretariats should fulfill their responsibilities to improve labour practices and prevent violations and legal infractions in each country. This Agenda proposes that these offices act in accordance with their mandate in the following ways:
 - Central American governments should guarantee that Labour Ministries comply with their responsibilities regarding labour legislation, as well as the international covenants signed by their states, and apply sanctions against companies and employers that fail to comply with the law.
 - Governments should guarantee the right of workers to benefits and severance pay, ensuring that they are properly calculated and paid in accordance with legal requirements.
 - Governments should strengthen the Labour Inspectorates in order to guarantee respect for the rights of women workers, in accordance with their constitutional mandate.
 - Governments should apply sanctions against employers in the maquila sector that impose salary deductions against workers for the day or time taken off work to seek medical consultations for themselves or their dependents.
- (vii) Central America is a region with a common history and common problems that affect each of the countries. Two recognized challenges are the creation of high quality jobs and the lack of respect for labour rights, especially within the maquila industry. To deal with this situation, the organizations that have endorsed the Agenda propose that efforts be made to advance in the following areas:
 - The Central American Integration System (SICA in Spanish) should include as part of its agenda the promotion and protection of human and labour rights of women maquila workers.
 - The Central American Parliament (PARLACEN in Spanish) and the Secretariat of SICA should promote the adoption of a minimum wage in each country in the region that is in accordance with the respective basic market basket, based on an analysis of minimum wages in each country and the cost of the goods included in each basic market basket.

2. The right to occupational health and safety

In the majority of Central American countries, occupational illnesses and injuries are registered as common illnesses and injuries, because the current classification procedure is inadequate and there is a lack of specialists in occupational medicine in the Social Security Institutes and Labour Ministries. This reduces the possibility of formulating public policies for the prevention, detection and determination of the causes of workplace illnesses and injuries and their proper treatment and compensation.

Occupational health and safety is a priority issue for public discussion and is a concern that has been reiterated in diverse national and regional forums organized by workers. How work is organized by

the majority of companies in the maquila industry has been a main topic of discussion in these fora. The current organization of work is based on production processes which include quotas and excessively high and unreachable production targets; long work shifts; and the introduction of temporary or hourly forms of employment. All of these negatively affect workers' health and undermine basic labour rights. To deal with this situation, the organizations that have endorsed this Agenda demand:

- (i) The promotion and maintenance of open dialogue among unions, women's organizations and governmental institutions and representatives of the private sector in order to find mechanisms and procedures to achieve improved compliance with labour legislation and regulations concerning occupational health and safety and bring adequate attention to the needs of the workers in the maquila industry. That dialogue should address demands articulated in points outlined below.
- (ii) Central American governments should carry out research and medical studies that identify the principal occupational health and safety risk factors related to workers' health. The findings of such studies should be used to formulate preventive measures and modify work methods in order to minimize prolonged exposure to occupational risks. At the same time, they should inform workers of the risks that they may encounter in their work.
- (iii) Employers and governments in the Central American region should train management personnel, government functionaries as well as workers on occupational health and safety associated with the ways that work is organized in the maquila industry.
- (iv) Governments, through their labour and social security inspectorates, should oversee, supervise, inspect and apply

sanctions against companies in the sector that fail to establish mixed health and safety committees, comply with international ergonomic standards, and/or comply with legal requirements to prevent work-related accidents and illnesses.

- (v) Central American governments should promote the training of experts in occupational medicine in order to guarantee that Social Security institutes and private workplace medical clinics have medical personal with expertise in work organization in order that they can provide adequate diagnosis and quality medical attention and treatment.
- (vi) Employers in the maquila industry must comply with legal requirements to establish mixed health and safety committees as mechanisms to deal with occupational health and safety problems common to the industry and resolve issues related to the quality of medical attention that workers receive.
- (vii) Social movement organizations in Central American should promote social auditing to verify compliance with workers' rights related to health and safety, as is done in verifying compliance with labour laws in each country.
- (viii) Employers in the maquila industry should develop and update plans to mitigate and prevent work-related hazards in order to guarantee safe working conditions and adequate security measures for workers. These plans should be approved by the respective Labour Ministry, in consultation with the social security institute in each country.
- (ix) The Ministry of Labour, in collaboration with the Social Security Institute, in each country should carry out periodic ergonomic studies of work stations in

maquila factories and utilize their findings to make adjustments to the work environment and redesign work stations and reduce exposure to occupational health and safety hazards.

(x) One of the principal health problems that maquila workers face is muscular-skeletal injuries caused by a variety of factors, including the handling of heavy loads, poor physical posture, rapid and very repetitive movements beyond normal reach, direct physical pressure on connective tissue (*tejidos corporals*), machine vibrations or prolonged work at low temperatures. Faced with this situation, it is imperative that the following changes be implemented:

- Improve the physical conditions at the workplace that cause muscular-skeletal injuries by adopting measures to improve workers' physical posture, their movements and the spatial organization of the machinery and work teams. Commitments to make these improvements should be undertaken by the brands and the maquila owners, and compliance with those commitments should be monitored by state institutions responsible for occupational health and safety, especially the Labour Ministries of each country.
- Central American governments should oversee and verify the methods used by employers in the sector to improve productivity through the use of production targets and long work shifts in order to assess and prevent the direct harm to workers' health and safety caused by their production methods. Labour Ministries should guarantee [the fulfillment of] this worker demand.

- Central American governments should monitor for and take steps to eliminate the practice of the 4X4, 3X4 and 5X2 work shifts that violate the right to an 8-hour work day, remuneration for overtime hours and an adequate work environment.

(viii) One of the instruments available to the Labour Ministries is routine and unannounced [factory] inspections, evaluating compliance with occupational health and safety standards. In order to have a complete picture of the existing situation in the workplace, this system of inspections must be maintained and improved and must include as part of the process the opinion of the workers and not just employer representatives. Greater emphasis should be placed on the need to prevent dismissals of workers based on diagnoses of [their personal] health risks.

3. Sexual and reproductive health

The issue of sexual and reproductive health and the problems that women encounter are particularly relevant to women workers in the maquila industry. Documented harmful impacts [on women's reproductive health] before and after conception can manifest themselves at different stages and provoke different kinds of disorders, such as changes in menstruation, reduction in fertility, spontaneous miscarriages, congenital abnormalities, premature births, childhood diseases, among others.

The risk of premature birth has been associated with a variety of factors that cause fatigue, such as risks associated with poor posture, physical strain, stress, or an inadequate workplace environment (noise, cold, heat, and humidity), high production targets and excessively long and tiring work shifts. Various risk factors have been identified relating to the role of women as mothers, and, in many cases, these are used as an excuse to discriminate against

women. These working conditions not only impact on women workers, but also on other members of the family. In order to improve women workers' access to sexual and reproductive services, we demand the following:

- (i) Social Security institutes in each country should carry out routine inspections to verify that women workers have access to health services and medical attention that guarantee a safe maternity during the pregnancy, delivery and lactation stages. Based on these inspections, Labour Ministries should require corrective action, including sanctions against employers in violation of legal requirements, in order to ensure that employers comply with national laws regarding maternity rights. The findings of these inspections and rulings should be made public and accessible to women's organizations and trade unions in each country.
- (ii) Ministries of Health, in cooperation with the Social Security institutes and private workplace clinics, should provide reproductive health services to women workers including prevention (such as PAP, and mammograms) and treatment for sexually transmitted infections, HIV-AIDS, and cervical-uterine cancer. Prevention could include educational talks and information on reproductive autonomy. It is also proposed that contraceptives be distributed at no cost to those women and men that request them.
- (iii) Labour Ministries should ensure that women's maternity rights are respected, imposing sanctions on employers that demand pregnancy tests as a condition of hiring, or that discriminate against women based on pregnancy or maternity. As well, they should monitor workplaces to ensure that pregnant women are not forced to do tasks that could cause harm to the mother or her baby, and to ensure that women have the right to receive their legal

maternity benefits and the right to return to their job without the threat of dismissal or the rewriting of their employment contracts.

- (iv) Trade unions and women's organizations, governmental institutions and employers in the sector must work together in order to provide psychological services to workers, through the establishment of peer support groups, to address problems of depression, anxiety, violence, and stress produced by the workplace and family environments. These organizations should share experiences and work methodologies that they have been using over the years. Governmental institutions should learn from these experiences and incorporate them into the public services that they provide to workers.
- (v) Ministries of Education in each country should include the theme of sexual and reproductive rights in their study plans, especially where this theme is not already part of the curriculum. In countries where study plans [on this theme] do exist, we demand that the content be holistic and not just focused on maternity as the only reason behind the need for sexual and reproductive health.

4. The right to social security

It is important to highlight that many women workers in the Central American maquila industry are not covered by social security. In some cases, companies deduct employee contributions (quotas), but do not report these deductions to the social security institute, which impedes worker access to this statutory benefit, and eventually those workers lose the contributions that were deducted during the period that this violation occurred. For women workers, not being registered for social security means that they are unable to request or enjoy maternity leave or to continue receiving remuneration during this period. It also

means that women are not protected from being dismissed during pregnancy. Not being covered by social security also results in women maquila workers being denied other social benefits, as well protection from hazardous situations and risks at work. In order to address this situation, we put forward the following demands:

- (i) Central American governments must ensure that the social security institutes in each country exercise sufficient oversight of the maquila industry to ensure that employers are respecting the rights for workers to be registered with social security and have access to health services. There should be regular inspections in order to verify that employers in the maquila sector are complying with the social security laws of each country.
- (ii) Central American governments should monitor – through the social security institutes of each country – the performance of the private clinics that operate in factories or free trade zones in order to prevent the provision of poor quality health services, the introduction of illegal charges for such services, or the substitution of private care for access to social security services, which is a right of all workers.
- (iii) Central American governments should impose sanctions on government functionaries that in exercising their responsibilities become aware of irregularities in labour practices taking place in the maquila industry, but fail to take action to correct those irregularities.
- (iv) Social security institutes and employers in the maquila sector should guarantee that personnel that work in the private workplace clinics – especially medical personal -- operate in a professional and ethical manner in order to avoid making medical decisions that are influenced by

their (financial or other) relationship to the employer.

- (v) Employers should expand the list of medicines that are currently offered in the private workplace clinics in order to address the full spectrum of illnesses and injuries caused by working conditions in maquilas, such as stress and muscular-skeletal disorders. Although often not included in the current list of occupational injuries and illnesses, these must receive attention. The social security institutes in each country should guarantee compliance with this demand.
- (vi) Social security institutions in each country must guarantee that workers receive immediate medical attention and that the process be speeded up when a worker needs a surgical intervention.

5. The right to a workplace free of violence and sexual harassment

Violence against women and girls is the result of unequal power relations and the subordination that women and girls experience in society as a result of their gender. This places them in one of the most extreme situations of inequality in society. Violence against women and girls occurs in all countries among all social groups defined by class, race, ethnicity and religion.

Central American countries are signatories to treaties and international conventions in favor of women's rights, which has led to these countries approving legal reforms to prevent, sanction and eradicate all acts of violence against women, irrespective of the environment in which they occur, including violence in the workplace. An example of this commitment is the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, better known as the 'Convention of Belem do Para' ratified by 31 countries in the Latin American region. This obligates signatory countries to

implement policies of prevention, regulation and eradication of violence against women, including the adoption of an appropriate national legal framework.

Violence against women in Central America and particularly workplace violence is carried out in a variety of different ways. Studies by women's organizations and unions reveal the conditions suffered by thousands of women workers whose labour rights are not being respected. Often, these women suffer psychological abuse, precarious health and safety conditions, the lack of freedom of association, sexual harassment and violence at work, abuses that transform this sector into one of increased exploitation, precariousness and violence, but also one in which violations go unpunished.

Physical, psychological, and verbal abuse and sexual harassment are different manifestations of workplace violence that takes place in the maquilas. This is in addition to the excessively long and exhausting work shifts and unachievable production targets that are also characteristics of workplace violence. Added to this is the impossibility of organizing unions that would defend labour rights and provide collective bargaining agreements. For these reasons, we demand:

- (i) Improved and more efficient coordination among the relevant authorities – Labour Ministry; Social Security Institute; Ministry of Health; Institute, Secretariat and/or Ministry of Women – in order to attend to the complaints of women maquila workers concerning violence (physical, verbal, sexual, psychological, economic) in the work place, so that these violations are attended to and resolved immediately.
- (ii) Central American Labour Ministries should improve inspections in free trade zones in order to prevent incidents of violence at the workplace by supervisors or security personnel that carry out body searches involving abusive touching of intimate

parts, while claiming that they are following the orders of their superiors.

- (iii) Improve the mechanisms for prevention of and legal sanctions against sexual and other forms of harassment and violence against women, and provide women with effective, agile and dissuasive legal instruments to address these common abuses experienced by women workers.
- (iv) Maquila owners and brands must improve their complaint mechanisms inside the workplace regarding sexual and other forms of harassment and violence against women, and promote education campaigns among the personnel of the factory in order to prevent impunity and the re-victimization of women workers.
- (v) Labour Ministries or Secretariats and/or Women's Ministries, Institutes or Secretariats should develop information strategies to educate women workers in the maquila sector and other sectors in order to facilitate and attend to the various complaints of women workers, particularly those concerning harassment at the workplace.
- (vi) Labour authorities, in coordination with the law enforcement institutions in Central America, should initiate legislative changes that encourage maquila owners to adopt security measures such as improvements in infrastructure, including public lighting in and around factories, in order to prevent violence against women workers and guarantee the security of citizens.
- (vii) Criminal justice and law enforcement institutions in the region should provide proper training of personnel involved in carrying out investigations and the legal proceedings related to violence and sexual and other forms of harassment against women workers, and guarantee that the attention given to these cases is of high

quality and does not result in the re-victimization of the women.

- (viii) Labour Ministries in each country should guarantee that maquila owners comply with legislation prohibiting violence against women. Personnel at all levels should be trained on these crimes and how to prevent them in the work place.
- (ix) Labour Ministries in each country and public institutions responsible for the defense of human and labour rights in the region should improve their procedures for verifying compliance with legislation concerning workplace violence in the maquila industry.
- (x) It is important to strengthen the capacity of women workers and their organizations to influence decisions about the quality and security of their working environment. This also includes lobbying for public policies that ensure the adequate administration of health and social security services, education, economic security and reproductive rights. To achieve this, we propose that:
 - Union and women’s organizations develop training processes with workers in the maquila industry on feminism, human rights, gender, self-esteem, the right to health care, occupational health and safety, labour rights, and the right to a life free of violence.
 - [Efforts be made] to strengthen the alliance between union organizations and the women’s movement in order to advance the process of legitimization, promotion and defense of women workers’ rights in the Central American maquila industry.

6. The right to training and technical assistance

Educational levels of women workers in Central American maquilas are notably low. Given that education is one of the necessary tools to obtain better paid jobs, the statistics on the low level of education among women maquila workers highlight how unfavourable the situation is for women. This situation is made worse by the minimal access that women workers have to education that would help them to gain training that would enable them to opt for another type of employment offering better pay.

Social norms continue to define certain types of jobs or tasks as ‘women’s work,’ dismissing their work as ‘unqualified’ and characterizing their incomes as ‘additional pocket money’ instead of essential income for their families. Furthermore, macroeconomic policies that inhibit job creation and reinforce the informality of the labour market have a disproportionately negative impact on women’s employment and their right to dignified work. To confront this reality of discrimination and minimal access to education, organizations supporting this Agenda propose that the following steps be taken:

- (i) Governments in the region should ensure that educational institutions elaborate programs that are specifically designed for women, and particularly women workers, in order to give them the opportunity to pursue technical and professional careers, in conformity with the demands of national development, and to attain a higher level of technical specialization needed by women for these careers. Such programs should include flexible hours in order that working and unemployed women can gain access to the labour market.
- (ii) National Assemblies and governments in the region should include in their national budgets support for the development of technical and higher education for the

retraining of the national labour force,
especially women workers.

- (iii) Governments and their institutions should guarantee the right of women workers to technical and professional reclassifications within the maquila industry and provide incentives to maquila companies to encourage them to respect this right by establishing work schedules that allow women to exercise this right.
- (iv) Technical institutes in the region should expand the coverage of existing technical training centres by creating new centres that improve women's access to training that is not limited by a gender-based notion of the division of labour.
- (v) Promote the creation of free courses designed for women workers in national universities so that they can increase their knowledge and access to better employment opportunities.